

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN**

TIMOTHY MCVAY, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

HARVARD BUSINESS PUBLISHING
CORPORATION,

Defendant.

Case No. 1:22-cv-00802-HYJ-RSK

Hon. Hala Y. Jarbou

**RESPONSE OF DEFENDANT HARVARD BUSINESS SCHOOL
PUBLISHING CORPORATION TO PLAINTIFF TIMOTHY MCVAY'S
NOTICE OF SUPPLEMENTAL AUTHORITY**

Defendant Harvard Business School Publishing Corporation¹ (“HBP”), by and through its attorneys, hereby responds to Plaintiff’s Notice of Supplemental Authority (ECF No. 40), which submitted the Report and Recommendation to Deny Defendant’s Motion to Dismiss and Motion to Certify Question in *Briscoe v. NTVB Media Inc.*, Case No. 4:22-cv-10352, ECF No. 41 (E.D. Mich. Mar. 3, 2023).

In response, HBP states that the decision in *Briscoe* is unpersuasive for the reasons already identified by this Court in *Bozung v. Christianbook, LLC*, 1:22-cv-00304-HYJ-RSK (W.D. Mich. Mar. 6, 2023), wherein this Court granted a motion to dismiss a claim under Michigan’s Preservation of Personal Privacy Act and noted its “disagree[ment]” with *Briscoe*. See *Bozung*, ECF No. 51 at PageID.1596-99. HBP respectfully submits that the same analysis

¹ Improperly named by Plaintiff as Harvard Business Publishing Corporation.

applied by this Court in *Bozung* supports granting HBP's pending motion to dismiss. *See generally* ECF No. 24.

Respectfully submitted,

Dated: March 9, 2023

By: /s/ Whitney M. Smith

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Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of March 2023, I served the above and foregoing on all counsel of record by filing it electronically with the Clerk of the Court using the CM/ECF filing system.

/s/ Whitney M. Smith

Whitney M. Smith (N.J. Bar No. 035552006)

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